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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,268	07/11/2001	Anthony Mazzurco	135740	9431

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ALCATEL USA
INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

MERED, HABTE

ART UNIT PAPER NUMBER

2616

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Handwritten mark

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/903,268	Applicant(s) MAZZURCO ET AL.	
	Examiner Habte Mered	Art Unit 2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-18.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) _____
13. ☐ Other: _____.


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Continuation of 11. does NOT place the application in condition for allowance because: The amendment after final rejection filed on 3/30/2006 has been fully considered but Applicant's arguments are not persuasive. With respect to independent claims 1, 7, and 13, Applicant argues, in the last paragraph of page 6 and in the second paragraphs of pages 9 and 10, that the limitation "responsive to an indicated span switch on a first ring, wherein the span switch is not between the first and second network elements while indicating availability of the shared protection channel to other rings" is not met by the references cited. Examiner respectfully disagrees. Chi discloses that protection channel is always available by default for use by other working rings as indicated in Column 5, Lines 4-6. Further, Chi shows always, irrespective of span or ring switch, availability of protection channels is indicated by passing k-byte signaling between network elements such as switches as indicated in Column 5, Lines 43-46. Chi's system is capable of performing span switch as indicated in Column 5, Lines 19 and 62 but de Boer teaches span switch and that k-byte signaling is exchanged after a span switch occurs as indicated in Column 11, Lines 9-17. Applicant further argues protection channel availability is indicated by sending NR signals. However, sending NR signals is not claimed. Applicant further argues Chi fails to address the limitation in the independent claims related to giving an indication of the non-availability of the shared channel as a result of receiving a request to use the protection channel for passing traffic for a second ring. Examiner respectfully disagrees with Applicant's conclusion. Applicant agrees with the Examiner, as indicated in the Remarks on page 7 in lines 16-19, that Chi discloses a lockout of the protection channel is passed in response to a ring switch which essentially meets the limitation in question because diverting the traffic of the second ring to the protection channel is part of a ring switch. Further, Applicant throughout the Remarks, indicates that the de Boer reference fails to disclose shared protection span or how to control signaling over a shared protection span. Examiner respectfully disagrees and a review of Figure 1; Column 11, Lines 9-17; Column 12, Lines 29-40; Column 5, Lines 64-Column 6, Lines 5 in de Boer reference clearly teaches shared protection span and signaling over such a span.